

PATENT COOPERATION TREATY

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Commissioner
 US Department of Commerce
 United States Patent and Trademark
 Office, PCT
 2011 South Clark Place Room
 CP2/5C24
 Arlington, VA 22202
 ETATS-UNIS D'AMERIQUE
 in its capacity as elected Office

Date of mailing (day/month/year) 21 June 2001 (21.06.01)	
International application No. PCT/US99/22843	Applicant's or agent's file reference AA431F/JH
International filing date (day/month/year) 01 October 1999 (01.10.99)	Priority date (day/month/year)
Applicant GRAY, Brian, Francis et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:
 12 February 2001 (12.02.01)

☐ in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was
☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

<p>The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No.: (41-22) 740.14.35</p>	<p>Authorized officer Olivia TEFY</p> <p>Telephone No.: (41-22) 338.83.38</p>
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REC'D 31 JUL 2001

WIPO

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference AA431F/JH	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US99/22843	International filing date (day/month/year) 01/10/1999	Priority date (day/month/year) [01/10/1999]
International Patent Classification (IPC) or national classification and IPC A61F13/15		
Applicant THE PROCTER & GAMBLE COMPANY et al.		



- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 6 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 12/02/2001	Date of completion of this report 27.07.2001
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer Schram, H Telephone No. +49 89 2399 2068 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/US99/22843

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):
Description, pages:

1-75 as originally filed

Claims, No.:

1-10 as received on 12/07/2001 with letter of 09/07/2001

Drawings, sheets:

1/7-7/7 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/US99/22843

☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	3-5,8,10
	No:	Claims	1,2,6,7,9
Inventive step (IS)	Yes:	Claims	10
	No:	Claims	3-5,8
Industrial applicability (IA)	Yes:	Claims	1-10
	No:	Claims	

2. Citations and explanations
see separate sheet

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:
see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:
see separate sheet

Cont. of Section V

1. The present invention relates to an absorbent article comprising a skin care composition.

Such an article is known from e.g. document WO98/42286 (D1). This document, which is considered to represent the most relevant state of the art, discloses a sanitary napkin having a skin care composition ("emollient lotion") provided on at least a portion thereof (see p. 21, l. 31ff). The topsheet is protected prior to use by a protective cover (see p. 2, l. 13 - 22). Some embodiments of this protective cover qualify as a treated barrier sheet, viz. being a barrier to the skin care composition in the sense that the migration of the skin care composition there through is reduced with respect to the untreated barrier (see e.g. p. 18, l. 26ff, in particular p. 19, l. 16 - 18, where a glazed paper is disclosed that has been treated with PVA and with silicone), although the purpose of the protective cover is to keep the topsheet free from contaminants (see p. 1, l. 33).

In response to a novelty objection the applicant has filed an amended claim 1, which requires that the skin care composition must be "oil-based" and that the barrier sheet is selected from the group of fluorochemicals, hydrophilic polymers, inorganic particles, or mixtures thereof (former claim 9).

However, document D1 already discloses that the lotion may contain oil (see p. 23, l. 19). Since the protective cover known from document D1 may be treated with PVA and with silicon, which are both hydrophilic polymers, also the above feature relating to the barrier sheet is known from document D1.

The present application does not satisfy the criterion set forth in Article 33(2) PCT because the subject-matter of claim 1 appears to be not new in respect of document (D1).

2. Also the subject-matters of claim 2, 6, 7 and 10 appears to be old in respect of document D1 (silicon makes the sheet releasible).
3. A wrapper for a sanitary napkin is known from document D2, see Figs. and p. 5, l.

6ff. It would be obvious for a person skilled in the art to use in document D1 a protective cover (having been treated to reduce the migration of the lotion there through) in the form of a wrapper known from document D2. It hence appears that no positive contribution to inventive step can be seen in the additional features of claims 3 - 5 and 8, contrary to Article 33(3) PCT.

4. The subject-matter of claim 10 is not disclosed in any of the cited documents. Since the purpose of the protective cover is not primarily to reduce the migration of the skin care composition, it would not be obvious for the skilled person to introduce this feature in the absorbent product known from document D1.
5. Since it appears that the claimed invention can be made or used in a technological sense in industry, the claimed invention appears to be industrial applicable within the meaning of Articles 33(4) PCT.

Cont. of Section VII

1. The units "dyne", "poise" and "stokes" expressed on e.g. p. 31, l. 24, Fig. 12, and p. 36, l. 30ff, do not meet the requirements of Rule 10.1 (a) PCT.
2. The document D1 has not been identified in the description nor has the relevant background art disclosed therein been discussed. The requirements of Rule 5.1(a)(ii) PCT are, thus, not fulfilled.
3. The two-part form of the independent claims should have been based on document D1.
4. Reference signs in parentheses should have been inserted in the claims to increase their intelligibility, Rule 6.2(b) PCT.

Cont. of Section VIII

1. The term "spirit" on p. 63, l. 6 and p. 75, second para., is unclear, thereby

resulting in lack of clarity of the claims (Article 6 PCT) when used to interpret them (see PCT Guidelines, PCT/GL/3 III, 4.3a). These statements should therefore have been deleted. The disclaimer on p. 75, first para., viz. that any subrange may be claimed even if not listed, is also not allowable, cf. Article 6 PCT.

2. Contents of documents should normally not be "incorporated by reference" (for example on p. 5, l. 3, p. 8, l. 21 and 26, p. 17, l. 30, p. 25, l. 27, p. 29, l. 27, p. 50, l. 20, p. 53, l. 25, p. 54, l. 12, p. 58, l. 34, p. 59, l. 27, p. 61, l. 5) unless it is essential to satisfy the requirements of Article 5, cf. PCT International Preliminary Examination Guidelines, Ch. II-4.17 (PCT Gazette Special Issue dated 29 October 1998).
3. The EP and US application numbers (see e.g. p. 28, l. 8, p. 29, l. 22, to p. 30, l. 10, p. 50, l. 19, p. 55, l. 17, p. 58, l. 30 and 32) should have been denoted by their publication numbers.
4. The description and the claims are not in line with each other. For example, the term "preferably" on p. 61, l. 8, contradicts the wording of claim 1.

WHAT IS CLAIMED IS:

1. An absorbent article having a body surface, a garment surface, and the absorbent article comprising an absorbent core, characterized in that

at least a portion of the absorbent article has a skin care composition provided thereon,

5

the absorbent article has a barrier sheet, ~~the barrier sheet being treated~~ to reduce the migration of the skin care composition therethrough,

2. The absorbent article of Claim 1 wherein the barrier sheet is disposed to cover a portion of the absorbent article to reduce the migration of the skin care composition thereto.
3. The absorbent article of Claim 2 wherein the garment surface of the absorbent article has an adhesive, wherein the barrier sheet covers the adhesive before the use of the absorbent article and is removed when in use.
4. The absorbent article of Claim 3 wherein the absorbent article has flaps extending outwardly, and the adhesive is a flap adhesive provided on at least a portion of the garment surface of the flap to secure the flap to the wearer's undergarment when the absorbent article is used.
5. The absorbent article of Claim 3 wherein the adhesive is a pad adhesive provided on at least a portion of the garment surface of the absorbent article to secure the absorbent article to the wearer's undergarment when the absorbent article is used.
6. The absorbent article of Claim 1 wherein the barrier sheet is disposed to cover a portion of the absorbent article which is provided with the skin care composition to reduce the migration of the skin care composition therefrom.
7. The absorbent article of Claim 6 wherein the skin care composition is provided on at least a portion of the body surface, wherein the barrier sheet covers the portion of the body surface where the skin care composition is provided.

the barrier sheet comprises a base sheet wherein the base sheet is treated with a composition comprising a component selected from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, or mixtures thereof.

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77

8. The absorbent article of Claim 6 wherein the absorbent article has a main wrapper sheet to wrap the absorbent article individually, wherein at least a portion of the wrapper comprises the barrier sheet.

~~9. The absorbent article of Claim 1 wherein the barrier sheet comprises a base sheet, wherein the base sheet is treated with a composition comprising a component selected from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, or mixtures thereof.~~

9. 10. The absorbent article of Claim 3 wherein the barrier sheet comprises a base sheet, the base sheet having two surfaces, wherein the base sheet is treated with a composition comprising a component selected from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, or mixtures thereof, and at least one surface of the base sheet is treated releasably.

5

10. The absorbent article of Claim 1 wherein the barrier sheet has durability effect of at least 12 hours measured by Accelerated Migration Test.